

# ITEL

August 13, 1987

RECORDATION NO. 15148-E Filed 1425

## Itel Rail Corporation

55 Francisco Street  
San Francisco, California 94133  
(415) 984-4000

AUG 18 1987-2 25 PM

Hon. Noretta R. McGee  
Secretary  
Interstate Commerce Commission  
Washington, DC 20423

INTERSTATE COMMERCE COMMISSION

No. 7-230A021

Date AUG 18 1987

Fee \$ 510.00

ICC Washington, D. C.

Re: Amendment No. 5 dated August 11, 1987, to the Lease Agreement dated October 15, 1986, as amended, between Itel Rail Corporation and Hartford & Slocomb Railroad Company

Dear Ms. McGee:

On behalf of Itel Rail Corporation, the above instrument, in four (4) counterparts, is hereby submitted for filing and recording pursuant to 49 U.S.C. §11303(a), along with a check in the amount of \$10 covering the recordation fee.

Please record this Amendment under the Lease Agreement dated October 15, 1986, between Itel Rail Corporation and Hartford & Slocomb Railroad Company, which was filed with the ICC on December 12, 1986, and given Recordation No. 15148.

The parties to the aforementioned instrument are listed below:

Itel Rail Corporation (Lessor)  
55 Francisco Street  
San Francisco, California 94133

Hartford & Slocomb Railroad Company (Lessee)  
P.O. Box 2243  
Dothan, Alabama 36202

This Amendment (i) adds to the Lease Agreement one hundred (100) 50'6", 70-ton, XP boxcars bearing reporting marks HS 14050-14149; and (ii) assigns such one hundred (100) boxcars to a third party as stated therein.

Please return to the undersigned the stamped counterparts not required for filing purposes, together with the fee receipt and ICC acknowledgment letter.

Very truly yours,

*Patricia Schumacker*

Patricia Schumacker  
Legal Department

:ps  
Enclosures

cc: Marianne Ledda

ICC OFFICE OF  
THE SECRETARY  
AUG 18 3 24 PM '87  
NOTICE OPERATING UNIT

ASSIGNED TO FIRST SECURITY BANK  
OF UTAH, N.A., TRUSTEE, UNDER  
A LEASE ASSIGNMENT.

THIS INSTRUMENT IS SUBJECT TO A SECURITY INTEREST IN  
FAVOR OF HELLER FINANCIAL, INC. UNDER THE HELLER  
FINANCIAL INC. LOAN AND SECURITY AGREEMENT WITH ITEL  
RAIL CORPORATION DATED AS OF SEPTEMBER 30, 1986.

07/21/87

REGISTRATION NO. 15148-E Filed 1426

AUG 18 1987 - 8 25 PM

INTERSTATE COMMERCE COMMISSION

AMENDMENT NO. 5

THIS AMENDMENT NO. 5 (the "Amendment") to that certain Lease Agreement, made as of October 15, 1986, as amended (the "Agreement") between ITEL RAIL CORPORATION ("Lessor") and HARTFORD AND SLOCOMB RAILROAD COMPANY ("Lessee") is made as of this 11th day of August, 1987 between Lessor and Lessee.

RECITALS:

- A. Lessor and Lessee are parties to the Agreement pursuant to which six hundred nine (609) boxcars (the "Cars") described therein have been leased by Lessor to Lessee.
- B. Lessor and Lessee desire to add one hundred (100) Cars to the Agreement.
- C. Lessor and Lessee desire to immediately assign such one hundred (100) Cars to a third party for a period of time, upon the terms and conditions set forth in the Assignment Agreement dated May 7, 1987, between Lessee and the Gulf and Mississippi Railroad Corporation ("GMSR Assignment") attached to Amendment No. 3 dated May 29, 1987, to the Agreement ("Amendment No. 3").

NOW, THEREFORE, the parties hereto agree to amend the Agreement as follows:

- 1. All terms defined in the Agreement shall have the meanings defined therein when used in this Amendment.
- 2. Equipment Schedule No. 7 attached hereto is hereby added to and made part of the Agreement.
- 3. Section 4 of Amendment No. 3 is hereby amended by deleting the words "Equipment Schedules No. 3 and No. 4 only" and replacing such words with the words "Equipment Schedule No. 3, No. 4 and No. 7 only."
- 4. Subsection 3.A. of the Agreement, as amended by Amendment No. 3, shall apply to the Cars listed on Equipment Schedule No. 7 as well as the Cars listed on Equipment Schedule No. 3.
- 5. Effective as of May 29, 1987, Section 6 of Amendment No. 3 is amended by adding the words "on page 3" after the words "except the duties described in paragraph 5" therein.

6. Lessor consents to Lessee assigning the Cars on Equipment Schedule No. 7 to the Gulf and Mississippi Railroad Corporation ("GMSR") provided that Lessee and GMSR execute Amendment No. 1 to the GMSR Assignment attached hereto as Exhibit A. Section 6 of Amendment No. 3 as amended hereinabove shall apply to the Cars listed on Equipment Schedule No. 7 as well as to the Cars listed on Equipment Schedule No. 3.
7. a. With respect to the Cars on Equipment Schedule No. 7 only, Subsection 7.A. of the Agreement is deleted in its entirety and replaced by the following:

"7. Rent

A. Definitions

- (i) 'Eligible Lines' is defined as the railroad lines owned and operated by Lessee as of the commencement date of this Agreement. Unless otherwise agreed by Lessor and Lessee, any lines purchased by Lessee or added to the eligible Lines during the Initial Term or any Extended Term are deemed to be the lines of another railroad company (a foreign road) for the purposes of determining Revenues (as defined in Subsection 7.A. (ii) hereinbelow). If, at any time during the Agreement, Lessee operates lines other than the Eligible Lines, then Lessee shall supply Lessor with records that distinguish the movement of each car on the Eligible Lines from the movement of such Car on any other railroad lines operated by Lessee.
- (ii) 'Revenues' is defined as the total revenues earned and collected or due for the use and handling of the Cars on all railroad lines other than the Eligible Lines, calculated at the rates set forth in Subsection 7.G. of the Agreement, including, but not limited to, per diem and mileage, whether or not collected and received by Lessor and undiminished by any claimed abatement, reduction or offset caused by any action or failure of Lessee. Upon any such abatement reduction or offset, Lessee shall, within ten (10) days of Lessor's request, reimburse Lessor for such amounts.
- (iii) With respect to the Cars on Equipment Schedule No. 7 only, the 'Base Rent' is defined as

per Car per calendar year. Such amount represents the Revenues such Cars would have earned in the aggregate had they been on railroad lines other than Eligible Lines for \_\_\_\_\_ of the hours that they were subject to the Agreement during such calendar year, with each such Car travelling \_\_\_\_\_ miles per day. The Base Rent for any such Car which is not subject to the

Agreement for an entire calendar year shall be prorated  
at  
day." per

- b. During the term and any extended term(s) of the GMSR Assignment ("Assignment Period") with respect to the Cars listed on Equipment Schedule No. 7, Subsections 7.C. and 7.D. of the Agreement shall be of no force or effect, provided that Lessee pays to Lessor all amounts due Lessee as Assignor under the GMSR Assignment.
- c. Prior to and after the Assignment Period, the terms of Subsection 7.b. hereinabove shall be of no force or effect.
- 8. With respect to the Cars listed on Equipment Schedule No. 7 only, the words "the Base Rent" in Subsection 7.E. of the Agreement are replaced by the words "one fourth of the Base Rent for such Cars" each time such words appear, and the words "for such calendar quarter or quarters" following the words "the Base Rent" are omitted in their entirety.
- 9. Except as expressly modified by the Amendment, all terms and provisions of the Agreement shall remain in full force and effect with respect to all of the Cars subject to the Agreement.
- 10. This Amendment may be executed by the parties hereto in any number of counterparts, and all said counterparts taken together shall be deemed to constitute one and the same instrument.

ITEL RAIL CORPORATION

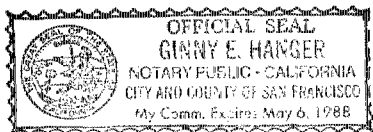
HARTFORD AND SLOCOMB  
RAILROAD COMPANY

By: *R. D. Hayes*  
Title: *President*  
Date: *August 11, 1987*

By: *C. J. Fischer Jr*  
Title: *President*  
Date: *July 24, 1987*

STATE OF CALIFORNIA       )  
                                      ) ss:  
COUNTY OF SAN FRANCISCO )

On this 11<sup>th</sup> day of August, 1987, before me personally appeared Desmond P. Hayes, to me personally known, who being by me duly sworn says that such person is President of Itel Rail Corporation, that the foregoing Amendment No. 5 was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Ginny E. Hanger  
Notary Public

STATE OF ALABAMA       )  
                                      ) ss:  
COUNTY OF HOUSTON     )

On this 24 day of July, 1987, before me personally appeared C. F. Fischer, III, to me personally known, who being by me duly sworn says that such person is President of Hartford and Slocumb Railroad Company, that the foregoing Amendment No. 5 was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Joan Thompson  
Notary Public

EQUIPMENT SCHEDULE NO. 7

Itel Rail Corporation hereby leases the following Cars to Hartford and Slocumb Railroad Company subject to the terms and conditions of that certain Lease Agreement dated as of October 15, 1986, as amended.

A.A.R. Mech. Desig.	Description	Numbers	Length	Dimensions		Doors Width	No. of Cars
				Inside Width	Height		
XP	70 Ton, Plate C boxcar, 10" End-of- Car Cushioning	HS 14050- 14149	50'6"	9'6"	10'7"	10' Sliding	100

ITEL RAIL CORPORATION

By: *[Signature]*

Title: *President*

Date: *August 11, 1987*

HARTFORD AND SLOCUMB RAILROAD COMPANY

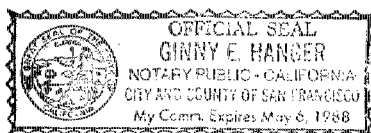
By: *[Signature]*

Title: *President*

Date: *July 24, 1987*

STATE OF CALIFORNIA       )  
                                      ) ss:  
COUNTY OF SAN FRANCISCO )

On this 11th day of August, 1987, before me personally appeared Desmond P. Hayes, to me personally known, who being by me duly sworn says that such person is President of Itel Rail Corporation, that the foregoing Equipment Schedule No. 7 was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Ginny E. Hanger  
Notary Public

STATE OF ALABAMA       )  
                                      ) ss:  
COUNTY OF HOUSTON     )

On this 24 day of July, 1987, before me personally appeared C. F. Fischer III, to me personally known, who being by me duly sworn says that such person is President of Hartford and Slocumb Railroad Company, that the foregoing Equipment Schedule No. 7 was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Jean Thompson  
Notary Public

# Hartford & Slocomb

RAILROAD COMPANY

A Subsidiary of ITEL Corporation

June 10, 1987

## EXHIBIT A

Mr. Charles J. Bryan  
President  
Gulf and Mississippi Railroad Corporation  
P. O. Box 1248  
Columbus, MS 39703

Dear Mr. Bryan:

Please accept this letter as Amendment No. 1 (the "Amendment") to the Assignment Agreement dated May 7, 1987 (the "Assignment Agreement") between Hartford and Slocomb Railroad Company ("Assignor") and Gulf & Mississippi Railroad Corporation ("Assignee").

The parties agree to amend the Assignment Agreement as follows:

1. All terms defined in the Assignment Agreement shall have their defined meaning when used in this Amendment.
2. This Amendment shall take effect upon its full execution.
3. "Boxcars", when used in the Assignment Agreement, shall be deemed to refer to the fifty (50) boxcars bearing the reporting marks from within the series HS 14000-14049, as well as ~~ninety (90)~~ <sup>(94)</sup> fifty-foot, 70-ton, ~~Boxcar~~ XP boxcars bearing reporting marks from within the series HS 14050-~~14057~~ which are hereby added to the Assignment Agreement. (1)  
(2)  
(3)
4. The second paragraph on page 1 of the Assignment Agreement shall be deleted in its entirety and shall be replaced by the following:

"The term of this Assignment Agreement ('Term'), with respect to each Boxcar, shall commence on the date and at the location such Boxcar is interchanged to Assignee ('Delivery') and shall expire as to all the Boxcars five (5) years from the Delivery of the first Boxcar."
5. Upon the Delivery of the final Boxcar, Assignor shall issue to Assignee a fully-executed Certificate of Delivery in the form of Exhibit A hereto that shall contain the expiration date of the Assignment Agreement as determined by Assignor. Unless, within fifteen (15) days of the date of such Certificate of Delivery, Assignee demonstrates to the satisfaction of Assignor that such expiration date is incorrect, Assignee shall be deemed to have concurred with such expiration date.

(1) one hundred (100)

(2) Plate C

(3) 14149

POST OFFICE BOX 2243

DOTHAN

ALABAMA 36302

(205) 792-2895 - 794-9417 - 793-1398

TELEX 59-3487

676-72870-1



6. a. Subsection (ii) of the fourth (4th) paragraph of the Assignment Agreement shall be amended by replacing the words "per diem, computed at per hour per Boxcar" with the words "per diem, computed at per hour per Boxcar bearing reporting marks from within the series HS 14000-14049 and computed at per hour per Boxcar bearing reporting marks from within the series HS 14050-~~14147~~." (4) (5)

- b. With respect to the Boxcars bearing reporting marks from within the series HS 14050-~~14147~~ only, Subsection (v) of the fourth (4th) paragraph of the Assignment Agreement shall be deleted in its entirety and shall be replaced by the following: (6)

"(v) With respect to the Boxcars bearing reporting marks from within the series HS 14050-~~14147~~ only, the 'Base Rent' is defined as (7)

per Boxcar per calendar quarter ('Quarter'). (Such amount represents the Per Diem Revenues which such Boxcars would have earned in the aggregate had they been on railroad lines other than Eligible lines for of the hours that they were subject to the Assignment Agreement during such Quarter.) The Base Rent for any such Boxcar which is not subject to the Assignment Agreement for an entire Quarter shall be prorated at per day for such Boxcar during such Quarter." (8) (9)

7. With respect only to the Boxcars bearing reporting marks from within the series HS 14050-~~14147~~, the fourth (4th) paragraph on page 3 of the Assignment Agreement shall be deleted in its entirety and shall be replaced by the following: (10)

"If, with respect to any Quarter, Revenues received by Assignor for the Boxcars bearing reporting marks from within the series HS 14050-~~14147~~ in the aggregate are less than (11)

per Boxcar (the 'Applicable Revenues') [which represents the Revenues which such Boxcars would have earned in the aggregate for such Quarter had they been on railroad lines other than the Eligible Lines for of the hours that they were subject to the Assignment Agreement during such Quarter and had each travelled (12)

], then Assignor may, at any time at its option and upon not less than ten (10) days' prior written notice to Assignee, terminate this Assignment Agreement as to such Boxcars as Assignor shall determine; provided, however, that Assignee may, at its option and within ten (10) days of receipt of such notice from Assignor, void such termination notice

by paying to Assignor an amount equal to the difference between actual Revenues for such Quarter and the Applicable Revenues."

8. Except as expressly modified by this Amendment, all terms and provisions of the Assignment Agreement shall remain in full force and effect.
9. This Amendment may be executed by the parties hereto in two (2) counterparts and both counterparts taken together shall be deemed to constitute one and the same instrument.

Please indicate your concurrence to the above terms and conditions by signing both enclosed originals and returning one to me.

Sincerely,

C. F. Fischer III  
President

Concurrence By:

GULF & MISSISSIPPI RAILROAD CORPORATION

By:

L. D. Butler

Title:

Super

Date:

6/23/87

EXHIBIT A

Certificate of Delivery

Assignment Agreement dated May 7, 1987

HS Reporting  
Marks and Numbers

Date Interchanged  
to GMSR

This Assignment Agreement dated May 7, 1987, between Hartford and Slocomb Railroad Company and Gulf & Mississippi Railroad Corporation shall expire on \_\_\_\_\_, 1992.

HARTFORD AND SLOCOMB RAILROAD COMPANY

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_